



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Kevin M. Burke
Secretary

The Commonwealth of Massachusetts

Department of Public Safety

Board of Building Regulations and Standards

One Ashburton Place, Room 1301

Boston, Massachusetts 02108-1618

Phone (617) 727-7532 Fax (617) 227-1754

TTY (617) 727-0019

www.mass.gov/dps

Thomas G. Gatzunis, P.E.
Commissioner

Gary Moccia, P.E.
Chairman

Alexander MacLeod, R.A.
Vice Chairman

Robert Anderson
Administrator

Date: July 17, 2008

Name of Appellant: Ms. Gale Woodhouse

Service Address: IMAI Keller Moore Architects
70 Phillips Street
Watertown, MA 02472

In reference to: Brimmer and May School
96 Middlesex Road
Chestnut Hill, MA 02467

Docket Number: 08-584

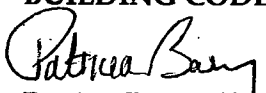
Property Address: Brimmer and May School
96 Middlesex Road
Chestnut Hill, MA 02467

Date of Hearing: June 24, 2008

Enclosed please find the decision for the aforementioned appeal.

Sincerely:

BUILDING CODE APPEALS BOARD


Patricia Barry, Clerk

cc: Building Code Appeals Board

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 08-584**

Gail P. Woodhouse,)
Appellant)
)
v.)
)
City of Newton,)
Appellee)
)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR §§ 705.5 and 705.3 of the Massachusetts State Building Code ("Code") to allow the new construction of a building located at 96 Middlesex Road, Chestnut Hill, MA known as the Brimmer and May School ("Project").

By letter dated May 15, 2008, Mr. John D. Lojek, Building Commissioner for the City of Newton ("Appellee") denied the permit application for the new construction of the above mentioned building for failing to comply with 780 CMR §§ 705.5 and 705.3.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on June 24, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Gale Woodhouse appeared on behalf of Appellant. John Lojek appeared on behalf of Appellee. Board Member Alexander MacLeod abstained from participation in this proceeding due to a conflict of interest, and this matter was heard by two members of the Board.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from the limitations set forth in 780 CMR §§ 705.2 and 705.3. The Appellant testified that the Project initially involved the renovation of a small wooden two story barn built approximately in the 1890's. However, after

further review it was determined that the barn must be demolished and new construction was required. The new building will hold three art studios for junior and senior high school students.

The issue on appeal concerns the north wall of the structure, which faces train tracks owned and operated exclusively by the MBTA. The Appellant seeks to add light into the art studios from the north side. The Appellant explained that the preexisting structure is in close proximity to the property line, between 5 and 10 feet from the property line. The structure required a 1 hour wall and has a maximum amount of glass; however, the Appellant intends to increase the amount of glass and preserve the cedar shingle wood construction of the building to maintain the appearance of the existing building.

The Appellant further testified that the mitigating factors include the fact that the existing building is in "bad shape" and there have been "no repairs done for decades" and has "no safety system whatsoever." The Appellant testified that she has been working on this Project with the Fire Department, the Planning Board and the Building Commissioner. The Project will be built according to Code for new construction and will make significant improvements to the fire safety. The building is 3000 square feet, however, it will be fully sprinklered, a new fire hydrant will be put in the vicinity of the building and an emergency access lane will be added. The Appellant testified that the plan has been accepted by the City, the Fire Department and the Building Commissioner. Finally, the Appellant noted the building has an unusual proximity to MBTA property, which is an 80 foot wide depressed lane with no static occupancy upon it.

Additionally, the Appellant testified that the fire lane was approved by the Fire Department at 14 feet as opposed to 18 feet. Some of the windows will be operable, and the Appellant will add some low and high vents for ventilation.

Mr. John Lojek, Commissioner for ISD for the City of Newton, testified that he was knowledgeable of the plan and stated that the Project provides a "far safer condition then presently exists" and "poses no threat to public safety whatsoever." With regard to zoning, Mr. Lojek testified that moving the building would complicate parking and the proposed plan places the structure further from the property line then the existing structure.

Decision

Board Member Jake Nunnemacher motioned to grant a variance from 780 CMR §§ 705.2 and 705.3 because the Fire and Building Departments do not oppose the variance and the Appellant will increase life safety by adding a full protection system, sprinkler system and a new fire lane and fire hydrant ("Motion"). The Motion was seconded by Brian Gale. Following testimony, and based upon relevant information provided, Board members voted to approve the Motion as described on the record. The Board voted as indicated below.

☒..... **Granted**

☐..... Denied

☐..... Rendered Interpretation


☐.....Granted with Conditions

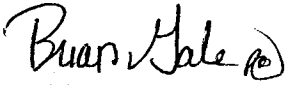
☐..... Dismissed

The vote was:

X.....Unanimous

☐..... Majority

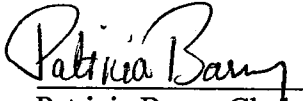

Jake Nunnemacher


Brian Gale

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: July 17, 2008


Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$5.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator
State Building Code Appeals Board
BBRS/Department of Public Safety
One Ashburton Place – Room 1301
Boston, MA 02108



The Commonwealth of Massachusetts

Department of Public Safety

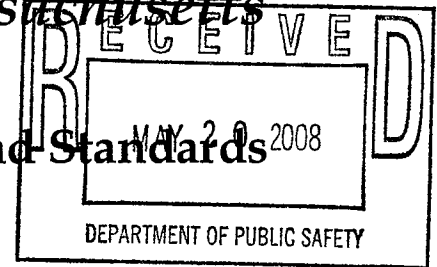
Board of Building Regulations and Standards

One Ashburton Place, Room 1301

Boston, Massachusetts 02108-1618

Phone (617) 727-7532

Fax (617) 227-1754



STATE BUILDING CODE APPEALS BOARD APPEAL APPLICATION FORM

DOCKET NUMBER (State Use Only)	08-584	DATE	15 MAY 2008
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The undersigned hereby appeals to the State Board of Building Regulations and Standards from the decision of the following person. (Please fill-in the name of the appropriate municipal or state building inspector or other authority. Also, Also indicate if this is a request for a *hearing de novo* (new hearing) relative to a decision of a municipal appeals board.)

Building Official from the City/Town of:	NEWTON.
Board of Appeals from the City/Town of: (Request for <i>hearing de novo</i>)	
State Building Official:	
Other:	

Please mark the appropriate box indicating the requested action to be considered by Appeals Board members.

Variance <input checked="" type="checkbox"/>		Order		Direction	
Interpretation		Failure to Act		Other	
STATE USE ONLY					
Fee Received	150.00				
Check Number	4116				
Received By	P. Barry				

(This section must be completed or the application will be returned.)

Has the building or structure been the subject of an appeal by this or any other appeals board previous to this filing?

No ☒ Yes ☐ If, yes, please indicate the date of the previous appeal, whether the matter was heard before a local or state appeals board, the code section that was at issue, and the specifics of the decision (i.e. a variance was granted/not granted).

Please take care to submit all written supporting documentation with this application to allow time for review. However, Board members reserve the right to continue proceedings if such material warrant extensive review.

Please provide a brief description of the desired relief below. Additional information may be attached if space is not sufficient. All appropriate code sections that are subject to appeal must be identified in the description.

We seek relief from the following two regulations at the north façade of the building, facing the 80' MBTA right of way, for reasons listed on the attached page:

780 CMR 705.3 (Exterior Wall / Openings):

The regulations establish a maximum unprotected opening area of 25% given a fire separation distance of 5-10 feet, and the presence of a full automatic sprinkler system.

780 CMR 780 CMR 705.2 (Exterior Wall / Fire-resistance ratings):

The regulations stipulate that exterior, load-bearing walls which lie between 5-10 feet from the property line, receive a 1-hour fire-resistance rating, and be rated for exposure to fire from the inside of the wall.

Please complete the following section completely and accurately.

Name of Appellant:	GAIL P. WOODHOUSE		Representing:	BRIMMEL & MAY SCHOOL	
Address For Service	IMAH KELLER MOORE ARCHITECTS				
	70 PHILLIPS ST.				
	WATERLOO MA 02472				
Telephone Number:	617-923-6010		Fax Number:	617-923-2659	
Address of Subject Property (if different from service address):	BRIMMEL & MAY SCHOOL				
	96 MIDDLESEX ROAD				
	CRESTHURST HILL MA, 02467				
What is appellant's connection to subject property?			ARCHITECT		

Signature of Appellant and/or Representative

GAIL P. WOODHOUSE
Please Print Name Legibly

Please return applications to:
Program Manager, Board of Appeals
Board of Building Regulations and Standards - One Ashburton Place, Room 1301
Boston, MA 02108-1618

City of Newton



David B. Cohen
Mayor

Inspectional Services Department

John D. Lojek, Commissioner
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
Telephone: (617) 796-1060
Fax: (617) 796-1086
www.ci.newton.ma.us

Building/Zoning Inspectors
(617) 796-1060
Zoning Board of Appeals
(617) 796-1060
Plumbing and Gas Division
(617) 796-1070
Electrical Division
(617) 796-1075

May 15, 2008

Gail P Woodhouse
Imai Keller Moore Architects
70 Phillips Street
Watertown, MA 02472

RE: Denial Letter, Corkin Art Studios, Brimmer and May School
96 Middlesex Road
Chestnut Hill, MA 02467

Dear Ms. Woodhouse;

I have reviewed the project documents for the above referenced project, and determined that the project is not in compliance with 780 CMR (MA State Building Code) 6th edition, as follows:

705.2 (Exterior Wall / Fire resistance ratings):

The regulations stipulate that the exterior (north) wall of the proposed building, which lies between 5-10 feet from the property line, receive a 1-hour fire-resistance rating, and be rated for exposure to fire from the inside of the wall. The proposed 2-story exterior wall of the project does not meet this requirement.

705.3 (Exterior wall / Openings):

The regulations establish a maximum unprotected opening are of 25% of the north wall, given a fire Separation distance of 5-10 feet, and the presence of a fully automatic sprinkler system. The north exterior wall exceeds this maximum percentage.

The application for permit is therefore denied.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Lojek".

John D. Lojek, Commissioner ISD

cc: John Detoma, Chief Inspector/ Plans Examiner
Candace Havens, Chief Planner

*Strict code enforcement makes the city safer
Before buying, renting or leasing check zoning*

STATE BUILDING CODE APPEALS BOARD

Service Notice

I, GAIL P. WOODHOUSE, as ARCHITECT for the

Appellant/Petitioner BRIMMER & MAY SCHOOL an appeal filed with the State

Building Code Appeals Board on MAY 15 20 08

HEREBY SWEAR UNDER THE PAINS AND PENALTIES OF PERJURY THAT IN ACCORDANCE WITH THE PROCEDURES ADOPTED BY THE STATE BOARD OF BUILDING REGULATIONS AND STANDARDS AND SECTION 122.3.1 OF THE STATE BUILDING CODE, I SERVED OR CAUSED TO BE SERVED, A COPY OF THIS APPEAL APPLICATION ON THE FOLLOWING PERSON(S) IN THE FOLLOWING MANNER:

	NAME AND ADDRESS OF PERSON OR AGENCY SERVED	METHOD OF SERVICE	DATE OF SERVICE
1	JOHN LOJER / NEWTON BUILDING COMMISSIONER NEWTON CITY MAN 1000 COMMONWEALTH AVE / NEWTON MA 02459	CERTIFIED / REGISTERED w/ RETURN ADDRESS	5/15/08
2	MA. BOARD OF BUILDING REGULATIONS & STANDARDS 1 ASHINGTON PLACE / RM 1301 BOSTON, MA 02108-1618	CERTIFIED / REGISTERED w/ RETURN ADDRESS	5/15/08
3			

Signature: Appellant or Petitioner

On the 15th Day of MAY 20 08 PERSONALLY APPEARED

BEFORE ME THE ABOVE NAMED Gail P. Woodhouse
(Type or Print the Name of the Appellant)

AND ACKNOWLEDGED AND SWORE THE ABOVE STATEMENTS TO BE TRUE.

Barbara Payne
NOTARY PUBLIC

July 6, 2012
MY COMMISSION EXPIRES

Project Description

The project is a reconstruction/addition of a small, 2-story 1890's barn, located at the corner of the Brimmer and May School property, in Chestnut Hill, MA, for use as an art studio building for a private secondary school.



The project has been designed as a renovation with a small addition, but in the process of completing the design, it became clear that the field stone foundation was too far gone to allow repair, and for cost reasons, the decision was made to demolish the barn, and reconstruct it in, essentially, the same location.

It nonetheless remains the intention of the design to approach the project as a reconstruction, using salvaged stock where reasonable, and maintaining the overall volume, shape and style of the original barn where the building faces the school and the residential neighbors to the W, S and E. On the north side, facing the MBTA tracks however, we wish to include a large glazed curtainwall area, providing north light for the art studios on the side of the building that is not visible to the neighbors.

Mitigating Factors Supporting Appeal:

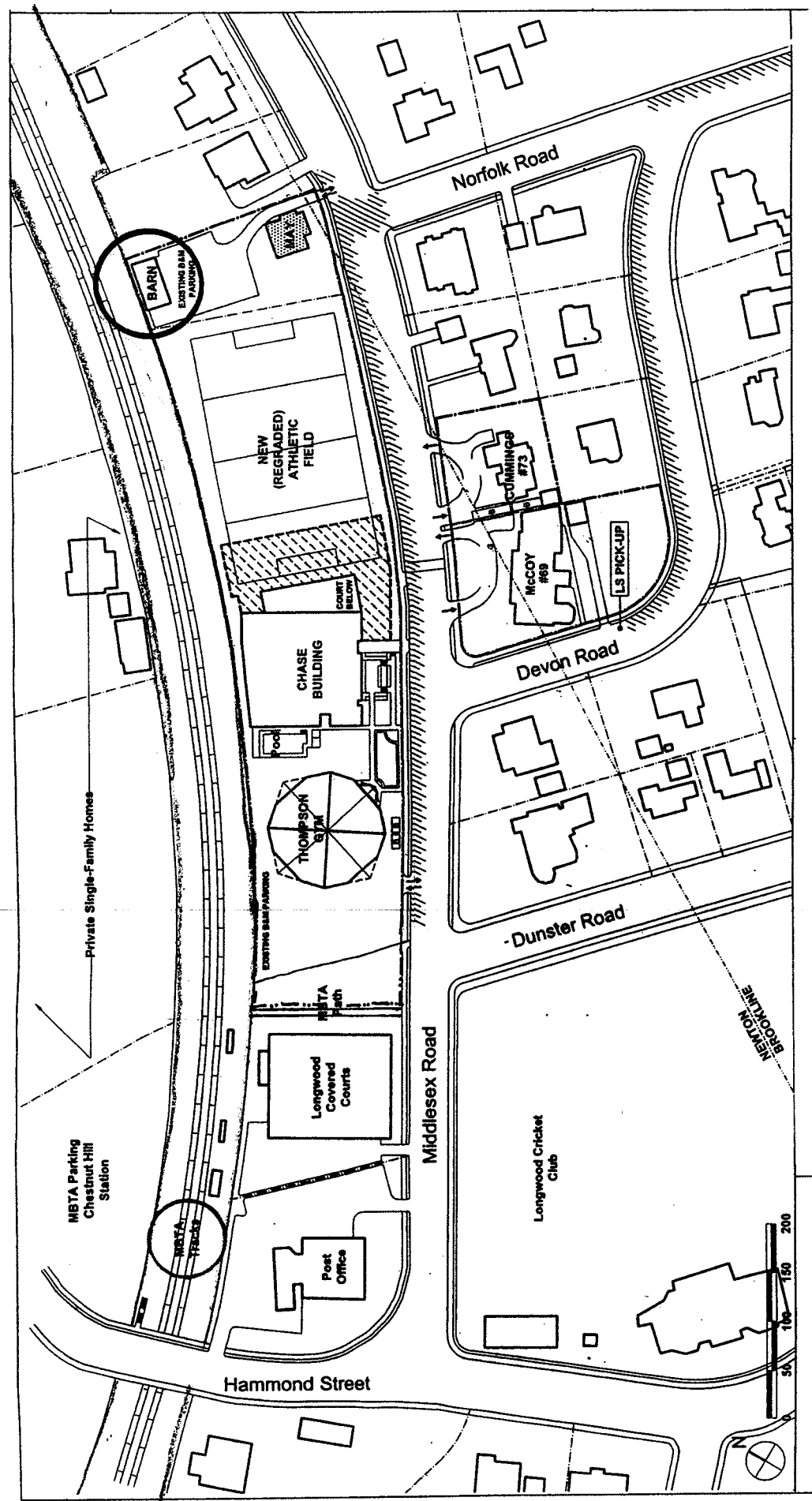
We are seeking relief for the 2-story north wall of the building that contains a curtainwall for the art studios, and is clad with cedar shingles to match the existing building. We believe that such relief will not pose any significant public safety concerns for the following reasons:

1. The abutting property is an 80' wide MBTA right of way -- a long-term, unoccupied property, with tracks recessed well below the grade of the Brimmer property.
2. The existing building is a dilapidated structure with no safety features, that will be replaced with a building that meets or exceeds the Code for new construction in all respects other than those listed on this application. Unlike the existing building,
 - a. The new building will be fully sprinklered, with all appropriate detection and alarm systems
 - b. The project site will be provided with a new hydrant, and a new emergency vehicle access lane.
 - c. The building will meet all Code requirements for new construction with the exception of the 2 cited issues, including compliant stair and egress conditions, and energy code compliance.
 - d. While the reconstructed structure cannot be moved significantly without loss of essential parking spaces, we do plan to increase the setback distances where possible, thus improving the current setback situation.

Attached:

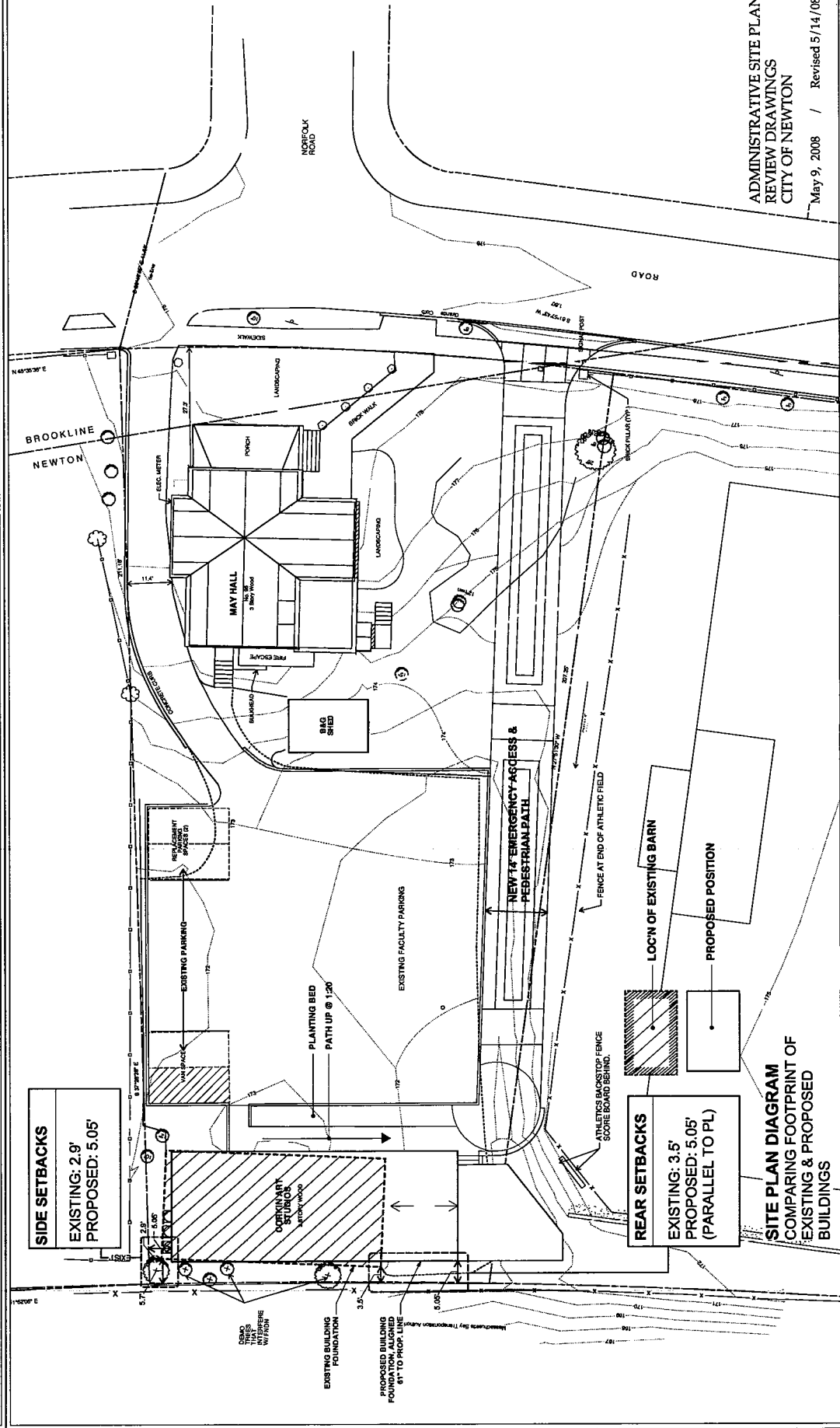
Letter of Support from Jon Lojek, Newton Building Commissioner

Project Description Material: Campus Plan; Site Plan; Rendering of North Facade



CORKIN ART STUDIOS
96 Middlesex Rd. / Chestnut Hill, MA
WESTERN ADDITION

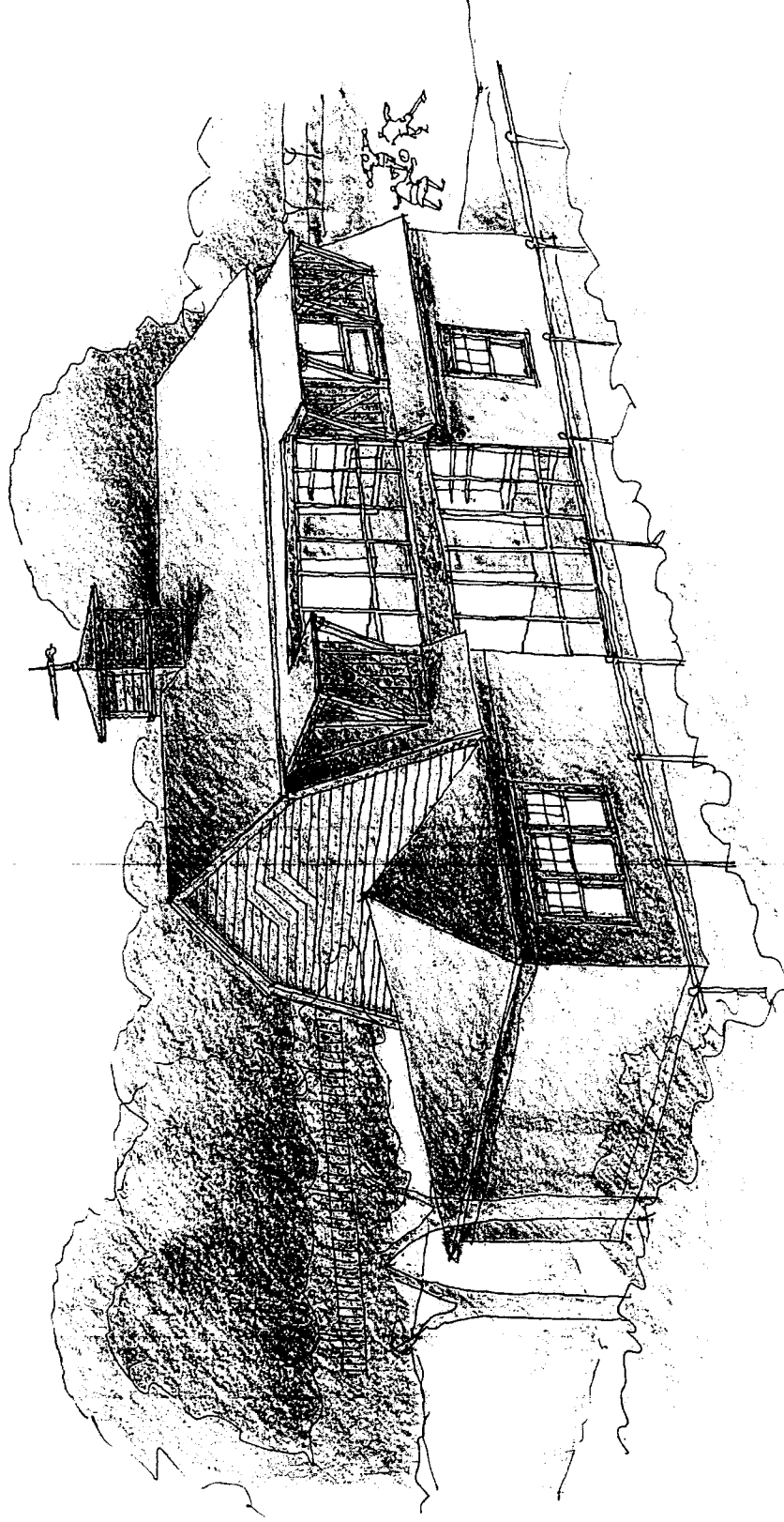
ADMINISTRATIVE SITE PLAN
REVIEW DRAWINGS
CITY OF NEWTON
May 9, 2008 / Revised 5/14/08



BRIMMER & MAY SCHOOL
Chestnut Hill, MA

CORKIN ART STUDIOS
96 Middlesex Rd. / Chestnut Hill, MA
WESTERN ADDITION

Imai Keller Moore Architects
Watertown, MA



VIEW FROM THE NORTH

ADMINISTRATIVE SITE PLAN
REVIEW DRAWINGS
CITY OF NEWTON

March 12, 2008

City of Newton



David B. Cohen
Mayor

Inspectional Services Department

John D. Lojek, Commissioner
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
Telephone: (617) 796-1060
Fax: (617) 796-1086
www.ci.newton.ma.us

Building/Zoning Inspectors
(617) 796-1060
Zoning Board of Appeals
(617) 796-1060
Plumbing and Gas Division
(617) 796-1070
Electrical Division
(617) 796-1075

May 23, 2008

Gail P Woodhouse
Imai Keller Moore Architects
70 Phillips Street
Watertown, MA 02472

RE: Corkin Art Studios, Brimmer and May School
96 Middlesex Road
Chestnut Hill, MA 02467

Dear Ms. Woodhouse;

I have reviewed the project documents for the above-referenced project, and support the applicant's request for relief from the following regulations of 780 CMR (MA State Building Code) 6th Edition:

705.2 (Exterior Wall / Fire resistance ratings):

The regulations stipulate that the exterior north wall of the building, which lies between 5-10 feet from the property line, receive a 1-hour fire-resistance rating, and be rated for exposure to fire from the inside of the wall. The 2-story exterior wall of the project does not meet this regulation.

705.3 (Exterior Wall / Openings):

The regulations establish a maximum unprotected opening area of 25% of the north wall, given the fire separation distance of 5-10 feet, and the presence of a full automatic sprinkler system. The north exterior wall of this project exceeds this percentage.

The position of the existing barn structure on the Brimmer and May campus, which this new building replaces, abuts the MBTA right of way – an 80'-wide, depressed strip of land -- which provides a wide unoccupied buffer to the north side of the building. The proposed new construction will improve the current condition, and poses no significant safety risk to adjacent properties, as follows:

- MBTA right of way is a long-term, and likely permanent, unoccupied property.
- New building will be fully sprinkled, with all appropriate detection and alarm systems.
- New site plans provide for a new fire hydrant, and a new emergency vehicle access lane.
- New building will meet all other requirements of 780 CMR for new construction.

*Strict code enforcement makes the city safer
Before buying, renting or leasing check zoning*

City of Newton



David B. Cohen
Mayor

Inspectional Services Department

John D. Lojek, Commissioner
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
Telephone: (617) 796-1060
Fax: (617) 796-1086
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Plumbing and Gas Division
(617) 796-1070
Electrical Division
(617) 796-1075

- The project will replace a deteriorating wood-framed structure with no safety systems, which is presently closer to the property line than the proposed new structure.

I do not believe these exceptions will in any way affect the safety of the public, or the occupants of this new building.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Lojek".

John D. Lojek, Commissioner ISD

Cc: John Detoma, Chief Inspector/ Plans Examiner
Candace Havens, Chief Planner



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Timothy P. Murray
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The Commonwealth of Massachusetts

Department of Public Safety

Board of Building Regulations and Standards

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Commissioner

Gary Moccia, P.E.
Chairman

Alexander MacLeod, R.A.
Vice Chairman

Robert Anderson
Administrator

12-Jun-08

Mr./Mrs. Gail Woodhouse
70 Phillips Street
Watertown, MA. 02472

Docket Number 08-584
Property Address Brimmer & May School, 96 Middlesex Road Chestnut Hill, MA. 0246
Hearing Location National Guard Armory 14 Minuteman Lane, Wellesley, MA
Hearing Date and Time 06-24-08 9:30 a.m.

Dear Mr./Mrs. Woodhouse

The appeal for the subject property has been scheduled to be heard on the hearing date and time and location indicated above. A map is enclosed for your convenience.

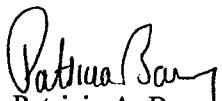
The State Building Code Appeals Board requires your presence or that of your representative at its hearing relative to the above case.

Please bring with you a copy of the record, including any plans, sketches, drawings, etc, that will help to give the Appeals Board grounds to adjudicate this appeal. The State Building Code Appeals Board hearings are held pursuant to 801 CMR 1.02 Informal Fair Hearing Rules.

NO POSTPONEMENTS OR REFUNDS WILL BE GRANTED. In order to reschedule an appeal case, you must first withdraw the original case and file a new application. A new application fee will be required.

Very truly yours,

THE STATE BUILDING CODE APPEALS BOARD


Patricia A. Barry
Coordinator



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Kevin M. Burke
Secretary

The Commonwealth of Massachusetts

Department of Public Safety

Board of Building Regulations and Standards

One Ashburton Place, Room 1301

Boston, Massachusetts 02108-1618

Phone (617) 727-7532 Fax (617) 227-1754

TTY (617) 727-0019

www.mass.gov/dps

Thomas G. Gatzunis, P.E.
Commissioner

Gary Moccia, P.E.
Chairman

Alexander MacLeod, R.A.
Vice Chairman

Robert Anderson
Administrator

12-Jun-08

Mr./Mrs. Lojek
Building Commissioner
1000 Commonwealth Avenue
Newton Centre, MA. 02459

Docket Number 08-584
Property Address Brimmer & May School, 96 Middlesex Road Chestnut Hill, MA. 0246
Hearing Location National Guard Armory 14 Minuteman Lane, Wellesley, MA
Hearing Date and Time 06-24-08 9:30 a.m.

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Very truly yours,

THE STATE BUILDING CODE APPEALS BOARD


Patricia A. Barry
Coordinator



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Kevin M. Burke
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The Commonwealth of Massachusetts

Department of Public Safety Board of Building Regulations and Standards

*One Ashburton Place, Room 1301
Boston, Massachusetts 02108-1618
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Thomas G. Gatzunis, P.E.
Commissioner

Gary Moccia, P.E.
Chairman

Alexander MacLeod, R.A.
Vice Chairman

Robert Anderson
Administrator

Chief Charles H. Murnane, Jr.
32 North Main Street
Andover, MA 01810-3513

Docket Number 08-585
Property Address River Road Veterinary Hospital 176 River Road
Hearing Location National Guard Armory 14 Minuteman Lane, Wellesley, MA
Hearing Date and Time 06-24-08 10:00 a.m.

Dear Chief Charles H. Murnane, Jr.

The appeal for the subject property has been scheduled to be heard on the hearing date and time and location indicated above. A map is enclosed for your convenience.

This notice is forwarded to you by the State Building Code Appeals Board as a courtesy. You are not compelled to attend but are encouraged to do so if you have a particular interest in the case.

If you have any questions relative to the above referenced appeal, please contact your BUILDING OFFICIAL.

Very truly yours,

THE STATE BUILDING CODE APPEALS BOARD


Patricia A. Barry
Coordinator

State Building Code Appeals Board

Summary to be filled out by Appeals Board Clerk

Pursuant to Docket no. (insert Docket no.) 08-584

Based on the following findings of fact/testimony:

1. _____
2. _____
3. _____
4. _____

A motion was made by (insert Board member name) Jake

A second was made by (insert Board member name) Brian

The motion is:

With the following conditions:

1. _____
2. _____
3. _____

The Board voted (to (**check one**) grant ☒ or deny ☐ the variance

from 780 CMR Sections (**cite all sections that apply**) 780 CMR 705.3 & 705.2

Members voting for the motion: Granted

Members voting against the motion: Sandy recussed himself

STATE BUILDING CODE APPEALS BOARD

OPENING STATEMENT:

Mr. Chairman:

The date is: June 24, 2008 the docket # is 08-584

The appellant is: Gail Woodhouse, Imai Keller Moore Architects

70 Phillips Street, Watertown, MA. 02472

The property involved is:

Brimmer & May School, 96 Middlesex Road, Chestnut Hill, MA. 02467

The appeal is based on the provisions of the 6th Edition of the State Building Code relative to: (Section/Table)

Relief desired:

780 CMR 705.3, 705.2

DECISION: (Please complete this section at the hearing).

The Building Official supported/opposed the appeal filing:

Board members voted to:

Grant Appeal

Deny Appeal

Reason for approval/denial: _____

The decision was _____ unanimous/ _____ objected to by: _____

Reason for objection: _____

Provisos (if any): _____

BOARD: _____

STATE BUILDING CODE APPEALS BOARD

DOCKET NUMBER: 08-584

PROPERTY ADDRESS: Brimmer & May School, 96 Middlesex Rd, Chestnut Hill

APPELLANT: Gail Woodhouse

BUILDING OFFICIAL: John Lojek

(check one)

Item #	Item	Document Dated	Date Received	Appellant	Building Official
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					